Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

REPLY TO OPPOSITIONS TO INTERIM WAIVER

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REPLY TO OPPOSITIONS TO INTERIM WAIVER

Grant of the interim waiver requested by Verizon, BellSouth, and SBC ("Petitioners") would simply preserve the status quo in two narrow areas pending action on reconsideration. Petition for Interim Waiver (filed Feb. 6, 2003) ("Petition"). The requested waiver is designed to avoid disruption to customers and carrier billing systems in a manner that is consistent with the Commission's policy that carriers may not recover from end users more than their actual costs of universal service. *See Federal-State Joint Board on Universal Service,* Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329 (rel. Dec. 13, 2002) ("*Report and Order and 2d FNPRM*"). Sprint filed comments in support and asked that other similarly situated local exchange carriers receive similar relief. *See* Sprint Comments on Petition for Interim Waiver. AT&T also has no objection to the waiver request, so long as none of the costs are transferred to other carriers, which they would not under Petitioners' preferred remedy. *See* AT&T Comments on Verizon, SBC, and BellSouth's Petition for Interim Waiver (filed Feb. 19, 2003).

WorldCom, the only party to fully oppose the waiver request, is attempting to create a competitive advantage for itself by denying Petitioners the ability to reasonably recover their universal service assessments and by artificially increasing Petitioners' Centrex service charges. Such tactics should be rejected.

WorldCom claims that grant of the Petition would "eviscerate a rule by a waiver." WorldCom, Inc., Opposition to Petition for Waiver at 3 (filed Feb. 19, 2003) ("WorldCom"). WorldCom ignores the very narrow nature of the request and the fact, as Petitioners demonstrated, that the waiver does not undermine the Commission's policy in the *Report and*

Order and 2d FNPRM. Contrary to WorldCom's claim, after the waiver is granted, Petitioners would charge customers only their universal service costs in connection with the vast majority of their interstate services. The only charges that would continue to be averaged would be those in connection with Centrex (consistent with the Commission's "equivalency" policy), for incidental charges such as to change a customer's primary interexchange carrier ("PIC") and end-user presubscribed interexchange carrier charges ("PICC"), and for Lifeline.

WorldCom supports its claim that the rule would be eviscerated by citing a recent Commission order relating to wireless carriers. *See* WorldCom at 2 and n.4, *citing* Order and Order on Reconsideration, FCC 03-20 (rel. Jan. 30, 2003). That order, however was not a waiver, as WorldCom claims. Instead, the Commission found that its rule had shortcomings when applied to the wireless industry and *changed* the rule to eliminate the problems.[1] Despite WorldCom's claims, there are not any broad-based waiver requests pending, so grant of the present Petition would not play havoc with the Commission's policy.[2] WorldCom also says that the Commission should "either reconsider the rule for all contributors, or put its foot down now and deny the Petitioners' waiver request." WorldCom at 3. Petitioners would have no objection if the Commission wanted to provide the narrow relief they request to all similarly situated carriers, as Sprint requests. But, contrary to WorldCom's claim, that narrow relief is fully consistent with Commission policy and would by no means eliminate key elements of the applicable rules.

[1] Unlike SBC's reconsideration petition, the waiver does not seek a change in the Commission's new contribution mechanism. It merely seeks to preserve the *status quo* in a few narrow areas while the Commission considers the petitions for reconsideration and clarification.

[2] The only other pending waiver that Petitioners are aware of is by AT&T. *See* AT&T Petition for Interim, Limited Waiver (filed Feb. 12, 2003).

While WorldCom addresses briefly the specifics of the waiver request, WorldCom fails to show why the Commission should not follow its long-standing policy of permitting carriers to apply an equivalency ratio to non-cost Centrex contributions. As Petitioners demonstrated, the Commission has applied the equivalency ratio to at least three contribution charges – PICC, number portability, and universal service – and has proposed to retain it in any new contribution mechanism it adopts for universal service. *See* Petition at 3-4. It would be that policy, not the new rule, that would be "eviscerated" if the waiver were denied.

WorldCom also claims that the fact that the Centrex equivalency policy is permissive somehow justifies denying the waiver. WorldCom at 4. The fact is, if Petitioners were forced to charge their Centrex customers the full universal service contribution, those customers would quickly move to other services. WorldCom is seeking an unfair competitive advantage for its PBX and local telecommunications services because, unlike Petitioners, it can hide its costs in its unregulated rates for other services and thereby attempt to use the regulatory disparity to lure new customers to its services. But it was to avoid making Centrex non-competitive as a result of regulatory actions that prompted the Commission to adopt the equivalency policy. If the waiver were denied, the result would be to eliminate that policy, even though the Commission proposed to keep it in any future universal service contribution mechanism. That result makes no sense, and for that reason alone, the waiver should be granted.

Equally illogical is WorldCom's statement on the Petitioners' request to average incidental charges, such as PIC change charges and end-user PICCs, that "[i]f Petitioners cannot make the necessary billing systems changes in the time required, they have the option, as contemplated in the Order, of recovering these costs in their rates or not at all." *Id.* at 5. Unlike WorldCom, Petitioners' rates are regulated and they would not be able easily to "recover these costs in their rates." Given its history of attacking PIC change charges, there is little question that WorldCom would oppose a tariff filing that seeks to adjust those charges to include a universal service contribution factor – an adjustment that would be needed each quarter as the factor changes. Therefore, including the charges in service rates is not an option. Nor is there any justification for forcing the carriers to absorb the costs. Again, WorldCom appears to be attempting to game the universal service rules to obtain an unfair competitive advantage.

WorldCom also argues that all carriers need to change their billing to accommodate the new rules and that Petitioners should be required to do so as well. WorldCom at 4. Petitioners will need to make a number of changes, just as will WorldCom, to implement the new rules for the many services not covered by the waiver. Only Petitioners and other incumbent local exchange carriers, however – not WorldCom – will need to make the changes to bill for PIC change charges and end-user PICCs, and it is those changes, not anything that also affects WorldCom, that are the subject of the narrow waiver. And the Commission did not consider the unique implementation issues addressed in the waiver when it established the new contribution mechanism.

Ad Hoc's opposition is limited to the request to average within customer categories incidental charges, such as PIC change charges and end-user PICCs. *See* Ad Hoc Telecommunications Users Committee, Partial Opposition to Petition for Interim Waiver (filed Feb. 19, 2003) ("Ad Hoc"). It does not oppose the bulk of the waiver regarding contributions for Centrex service. *See id.* at n.2. In fact, a number of business customers have told the Commission how important maintaining the equivalency ratio policy is to their services and urge the Commission to clarify that it intended to retain that policy.[3] Ad Hoc asserts that the Petitioners have not justified a waiver by quantifying the costs of the billing change or by showing why other multi-line subscribers should pay higher charges.

The record in this docket shows that the cost of making the billing changes would be considerable. SBC, in its reconsideration petition, stated that adjusting its systems to allow charges to be calculated on a customer-by-customer basis to account for occasional and usage-based interstate services (*i.e.*, to enable billing for incidental charges such as PIC change and end-user PICC charges) would take approximately 4,000 man-hours in the Ameritech region alone. *See* Petition for Reconsideration of SBC Communications Inc. at 6 (filed Jan. 29, 2003). Verizon and BellSouth estimate that it would take about 5,100 and 4,000 man-hours, respectively for their companies to change their billing systems. In addition, continued averaging of the charges would cause the universal service surcharge to each customer to be only slightly higher – about one penny per month per line – than it would be otherwise.

Besides incurring significant costs, the Petitioners would simply be unable to change all their billing systems in time to meet the April 1, 2003 deadline. Therefore, if the Commission does not permit them to average their costs of incidental services, such as PIC change charges and end-user PICCs, pending reconsideration, it is asked to grant a temporary waiver for up to nine additional months after the current April 1, 2003, deadline to allow Petitioners' billing systems to be changed. *See* Petition at n.8.

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[3] *See, e.g.*, Letter from John A. Heiden, President, National Centrex Users Group, CC Docket No. 96-45 (filed February 3, 2003); Letter from Ron Lutka, Department Manager – Telecommunications, U.S. Steel Corporation, CC Docket No. 96-45 (filed Feb. 13, 2003); Letter from Brett Young, Director of Engineering and Maintenance, Marquette General Hospital, CC Docket No. 96-45 (filed Feb. 5, 2003); Letter from Vic Federowski, John Crane, Inc., CC Docket No. 96-45 (filed Feb. 4, 2003).

AT&T does not oppose the waiver request. It objects only to Petitioners' alternative remedy, that they be permitted to send the Universal Service Administrative Company ("USAC") only what they are able to recover from their customers. That is not Petitioners' preferred remedy. However, if the Commission does not allow Petitioners to recover the rest of the contributions from their customers through averaging, they should not have to send USAC a higher amount than they can bill. In that event, the contribution factor would be raised slightly, and all carriers, including Petitioners, would be able to recover the increased amounts from their customers.

Accordingly, the waiver should be promptly granted.

Respectfully submitted,

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